

1 **TOWN OF SUNNAPEE**

2 **ZONING BOARD**

3 **JULY 7, 2022**

4 **Chairman Claus called the meeting to order at 6:35 PM.**

5 **MEMBERS PRESENT IN THE MEETING ROOM:** Chairman Jeff Claus, Jamie Silverstein, Michael Jewczyn,
6 David Munn, James Lyons.

7 **MEMBERS PRESENT VIA ZOOM:**

8 **ALSO PRESENT IN THE MEETING ROOM:**

9 **PRESENT VIA ZOOM:** Shannon Martinez, Town Manager.

10 **NEW CASES**

11 **CASE 22-08 PARCEL ID: 0130-0005-0000 SEEKING A SPECIAL EXCEPTION AS PROVIDED FOR IN ARTICLE**
12 **IV, USE REGULATIONS, TO OPEN AND OPERATE A HOME BUSINESS (BEAUTY SALON). 33 WEST COURT**
13 **ROAD; RURAL RESIDENTIAL ZONE; SHAUN CARROLL, JR.**

14 Shaun Carroll, Jr said his daughter (Kathleen Carrol) lives in 33 West Court, he owns the house, and she
15 is interested in opening a beauty salon in the basement. The previous owner had owned a home
16 business there. The basement used to be a garage before.

17 Ms. Silverstein pointed that this Special Exception for Use falls under Section 4.15.

18 Chairman Claus reminded the applicant that he would have to go through site plan approval once he
19 gets this variance of use and that one of the requirements is parking space which would have to go
20 through the Planning Board as well. He also pointed out that the application listed them as rural
21 residential, but this is a residential zone. Also, under the permit by special exception it stays home
22 business, and the definition of home business helps guide the Board in making their decision. He read
23 that home business is defined as a business conducted within a home and no more than three non-
24 resident employees. The home business shall meet all the requirements of a site plan review
25 regulations. If the home business is for retail purposes shall be limited in the items which are made on
26 the premises or antiques.

27 Kathleen Carrol explained that she is going to be the only employee, but she is going to have two chairs
28 there for two potential customers at the same time and that she usually sells products, but she will not if
29 she is not allowed to.

30 Ms. Silverstein asked the applicants about the hours of operation, will there be clients at night, a lot of
31 lighting as well as if there is going to be signage.

32 Kathleen Carrol said that the hours of operation will be Mon-Fri 9.00AM-5.00PM, except Thu until 7PM
33 and every other Sat 9.00AM-3.00PM. Not much lighting and if she can have a sign, she would love one.

34 Mr. Jewczyn said that under Section 4.15 subsection 3 there is a requirement that they would have to
35 prove that the town can sustain additional sewage.

Mr. Carroll said that he had talked to Roger about that, and he paid about the hook up and they are all set up for that.

Chairman Claus said that it looks like everything appears to be compliant except the retail side of things if they ever intent to.

The Board established that the applicant has not filled out the Special Exception Criteria under Section 4.15. Mr. Lyons read all the Criteria and told the applicants that they were supposed to specifically answer those questions one by one in the application.

Chairman Claus suggested that they go through the Criteria one by one and discuss it with the applicants, since it was established that it was a technical mistake and the applicants had filled out the wrong application or old one which does not have the Criteria listed. The Board agreed with his proposal.

(1) That the selected site is an appropriate location for the proposed use.

The answer from the applicants was Yes.

(2) That adequate and safe highway access is provided to the proposed site and that there is adequate off-street parking provided for the proposed use.

The Planning Board will address that Criteria, but it looks like they have enough street parking available.

(3) That adequate method of sewage disposal is available at the proposed site.

The answer from the applicants was Yes.

(4) That the proposal will not be detrimental, hazardous, or injurious to the neighborhood.

The answer from the applicants was Yes.

(5) That the proposed use is consistent with the spirit of the Ordinance and the intent of the Master Plan.

The answer from the applicants was Yes.

Mr. Lyons made a motion for Case ZBA: 22-08: Parcel ID: 0130-0005-0000: Approve a Special Exception as provided for in Article IV, Section 4.15 use regulations, to open and only operate a home business, specifically a beauty salon. Applicant will provide a written answers to the five Criteria as discussed at this meeting, this evening and the meetings recording secretary take a verbatim transcription of the five Criteria that were read and an adequacy for a sewar hookup. 33 West Court Road; Residential Zone; Shaun Carroll, Jr. Ms. Silverstein seconded the motion.

The motion was voted in favor unanimously.

Chairman Claus moved to the next case.

CASE 22-09 PARCEL ID: 0128-0065-0000 SEEKING A SPECIAL EXCEPTION AS PROVIDED FOR IN ARTICLE III, SECTION 3.50(B), AND SECTION 3.55 TO ALLOW APPROXIMATELY 500 SQ. FT. OF ADDITIONAL "NEW" BUILDING ENCROACHMENT IN THE 50 FT. FRONT SETBACK. 101 LAKE AVENUE; RESIDENTIAL ZONE; PHILIP & BROOK HARRELL.

Phillip Harrel introduced himself and said that with his wife Brook and their four children they moved in Sunapee six years ago and bought this property in 2018.

Chris Kessler of Gradient, PLLC presented the case by going through the application, reading, and explaining all the Criteria as per application. He went back to 3.50(b)(2) and said that the best way to outline is with provided spreadsheet of the properties located within 500' and the associated map that shows the offset of each one of the properties located within 500'. There are two properties which technically fall within a 500' setback or outline in either direction but with a little bit of a question. According to the ordinance is a little unclear whether those two properties should be included.

The Board had a long discussion about interpreting the measurements of the setback and because there was a lot of confusion among the Board because of that, they have decided that they would possibly involve a counselor for clarification and continue the case possibly on the 19th.

Chairman Claus announced that they are going to continue Case 22-09 Parcel ID: 0128-0065-0000 Seeking a special exception as provided for in article III, Section 3.50(b), and Section 3.55 to allow approximately 500 sq. ft. of additional "new" building encroachment in the 50 ft. front setback. 101 Lake Avenue; Residential Zone; Philip & Brook Harrell at the July 19, 2022, meeting of Planning Board that starts at 6.30PM.

CASE 22-10 PARCEL ID: 0134-0012-0000 REQUESTING A VARIANCE OF ARTICLE III, SECTION 3.40(J) AND ALLOW RECONSTRUCTION OF A FAILING STONE WALL OVER 42" HIGH AND WITHIN SIDE YARD SETBACK. 231 LAKE AVENUE; RESIDENTIAL ZONE; HEATHER HORAN REVOCABLE TRUST.

Heather Horan and Steven Horan said that in 2017 they had a one-car garage built between the street and their home. As an afterthought the builder have built a rubble wall in between the garage and their home, which is failing and starting to fall now all over the house and needs to be replaced. They have sought input from a number of different people, excavators etc. and have found that the right thing to do is to tear down the wall and replace it with Redi-Rock retaining wall. After getting the permits and discussed with Roger, it was flagged for being over 42" high and that is why they are here now.

Chairman Claus asked if the reason Roger did that is because the wall was not originally permitted as far as that garage construction.

Pierre Bedard presented the case and said that the variance was granted for the construction of the garage back in 2016 and the current wall was never a part of that approval. A part of the wall is within the setback that does not meet the ordinance. He went through the application and then read all the Criteria.

Mr. Jewczyn had two questions: Is what they are doing going to make their property better to which the answer was yes, it is going to make it safer and if it is going to harm any of their neighbors to which the answer was no.

Ms. Silverstein asked how high the wall is going to be to which the answer was that it varies but the highest it would be is around 5' or as the same height and envelope as the old one and it will improve the drainage.

Chairman Claus pointed that the real problem here is meeting all the five criteria and the last one is always the hard one because it has to do with something unique to your property that is forcing you to

110 require a relieve from the ordinance, and he is not sure that this case should be handled this way, it
111 should be repairing kind and they should be fixing the wall but this should not be the vessel of getting
112 that approval.

113 The Board discussed that even though the last criteria seem to be hard to meet in this case, it is the case
114 where they are concerned about the danger of the situation and the safety of the property and by
115 approving this variance, they are not doing any harm.

116 **Ms. Silverstein made a motion for Case 22-10 parcel ID: 0134-0012-0000 requesting a variance of**
117 **Article III, Section 3.40(J) and allow reconstruction of a failing stone wall over 42" high and within side**
118 **yard setback. 231 Lake Avenue; Residential Zone; Heather Horan Revocable Trust. Mr. Lyons seconded**
119 **the motion.**

120 **The motion was voted in favor with four votes for and one sustained (Jeff Claus).**

121 MISCELLANEOUS: There were no Review Minutes from Previous Meeting(s). The members of the Board
122 picked and shared among them the remaining Minutes to review for the next meetings.

123 Mr. Lyons had a suggestion for the Town to buy a machine that could transcript and convert the voices
124 from the meetings into typed words.

125 OTHER BUSINESS: Chairman Claus discussed the next meeting and asked if everybody is going to be
126 present.

127 Mr. Jewczyn had an opinion that the Planning Board incorrectly decided that no site plan review was
128 needed for the case on Maple Street and that there is no reason for them to recuse themselves because
129 the rule from Section 8.2 says that the site plan review was required to issue the permit and his question
130 was if they should have come in front of the Zoning Board before the site plan review.

131 Chairman Claus said that he needs to establish that he was told that for the tourist home appeal they
132 need to state if they will recuse themselves and said that he will. By the guidelines that he had send by
133 mail to the members of the Board, there are three or four by which they need to recuse themselves
134 because they have prejudged the case and enter the hearing impartial. He also told Mr. Jewczyn that he
135 has the option to recuse himself and leave the meeting or he can sit in the audience and voice his
136 opinion as a community member.

137 **Ms. Silverstein made a motion to adjourn the meeting at 9:00PM. Mr. Munn seconded the motion.**
138 **The motion was passed unanimously.**

139 Respectfully submitted

140 Rajmonda Selimi